

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAZ INNOVATIONS, L.L.C.)	
)	
Plaintiff)	CIVIL ACTION NO. 11-CV-932
)	
v.)	
)	Honorable Judge C. Darnell Jones
CHRISTMAS TREE SHOPS, INC., and)	
NANTUCKET DISTRIBUTING CO., INC.)	
)	
Defendants)	

**PLAINTIFF'S APPLICATION FOR
TEMPORARY RESTRAINING ORDER WITH NOTICE, AND
ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

Plaintiff JAZ Innovations, L.L.C. ("JAZ") hereby moves the Court:

1. For an Order temporarily restraining and enjoining defendants Christmas Tree Shops, Inc., and Nantucket Distributing Co., Inc., their agents, servants and employees, as well as all persons in privity or acting in concert with them, from:
 - (a) Infringing, inducing others to infringe or contributing to the infringement of JAZ's copyrights to its "Oven Rack Guard" marketing literature, including the text on page 4 of JAZ's 2010 Product Catalog as covered by U.S. Copyright Registration No. TX 7-278-082;
 - (b) Importing, manufacturing, copying, assembling, reproducing, distributing, exporting, soliciting, and/or selling products that infringe JAZ's copyrights to its "Oven Rack Guard" marketing literature;
 - (c) Using JAZ's "Oven Rack Guard" trademark, trade name or trade dress, or employing any trademarks, trade names or trade dress confusingly similar to them; and,
 - (d) Describing or representing, whether in words, on packaging, or in

advertising, that any product imported, manufactured, copied, assembled, reproduced, distributed, exported, solicited and/or sold by defendants emanates from, is authorized by, or is otherwise connected with JAZ.

2. For an order to show cause why a preliminary injunction should not issue:

(a) Enjoining defendants and their agents, officers, employees, and representatives and all persons in privity or acting in concert with them from committing any of the acts set forth in paragraph 1 above during the pendency of this action; and,

(b) Impounding the packaging and product shown in Consumer Product Safety Commission Release #11-087 that is in defendants' custody or control during the pendency of this action; and,

3. For an Order granting expedited discovery to JAZ.

This application is made pursuant to the Court's inherent equitable power to issue provisional remedies, Federal Rule of Civil Procedure 65, the Copyright Act, 17 U.S.C. §§502(a) and 503 and the Lanham Act, 15 U.S.C. §1052(a). This application is based on the supporting Memorandum and the declaration of Dr. Andrew Milligan, and on all other papers and pleadings of record in this action.

Defendants are importing, manufacturing, copying, assembling, reproducing and/or distributing unauthorized JAZ "Oven Rack Guard" products that are virtually identical or confusingly similar to genuine JAZ product, when defendants' products are actually of inferior quality and are harmful to the public.

Unless immediately enjoined, defendants will continue to import, distribute, reproduce and/or sell their infringing, unauthorized, substandard, JAZ "Oven Rack Guard" product in violation of the federal copyright and trademark laws; to harm members of the public who are deceived into believing that they are purchasing genuine JAZ products; and to cause irreparable

injury to JAZ's copyrights, trademark rights and trade dress rights and to its reputation and goodwill.

Dated this 8th day of March, 2011.



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